



**STATE OF NEW JERSEY**

**FINAL ADMINISTRATIVE ACTION  
OF THE  
CIVIL SERVICE COMMISSION**

In the Matter of Overtime Program,  
Department of Law and Public Safety

CSC Docket No. 2022-1089

Administrative Appeal

**ISSUED: NOVEMBER 22, 2021  
(SLD)**

The Department of Law and Public Safety (DL&PS), Division of State Police, Criminal Justice Records Bureau and Discovery Unit, requests that the provisions of *N.J.A.C. 4A:3-5.3* be relaxed to provide certain individuals in non-limited, non-exempt (NE) titles, cash compensation at the regular rate for hours worked between 35 hours and 40 hours, and cash compensation at one and one-half times the regular rate for hours worked over 40 hours.

In its request, DL&PS explains that under the Bail Reform and Speedy Trial Act, the State has 90 days to indict a defendant who has been detained and another 180 days to bring the case to trial. DL&PS asserts that in the Civil Services Commission's (Commission) prior decision, *In the Matter of Overtime Program, Department of Law and Public Safety* (CSC, decided May 19, 2021), it had previously relaxed the provisions of *N.J.A.C. 4A:3-5.3* through November 30, 2021. DL&PS argues that if its current request is not granted, the failure to provide discovery in the mandated timeframes would result in criminal cases being dismissed for lack of prosecution in addition to the detrimental consequence of enabling defendants to avoid prosecution for the crimes committed. Moreover, it maintains that there is currently a four-month, 8,000 file backlog in discovery requests. The DL&PS maintains that this backlog in discovery requests could result in records not being accessible to other units conducting mandated court ordered checks. For example, lab reports would not be available to Forensics, firearms records will not be updated which could result in an individual receiving a firearm when he or she has been

banned from owning a firearm, an individual could potentially pass a background check when they should not, and a case could be dismissed in court for lack of discovery or a fingerprint card not being accessible to potentially identify a criminal. Therefore, it requests that the provisions of *N.J.A.C.* 4A:3-5.3 be relaxed to provide cash compensation at the regular rate for hours worked between 35 hours and 40 hours, and cash compensation at one and one-half times the regular rate for hours worked over 40 hours to the following individuals:

<u>NAME</u>	<u>TITLE</u>	<u>LOCATION</u>
Dana Lugo	Investigator 1, Law and Public Safety	Discovery Unit
Thomas Labelle	Investigator 1, Law and Public Safety	Discovery Unit
Stephen Mahony	Investigator 1, Law and Public Safety	Discovery Unit
Joseph Park	Investigator 1, Law and Public Safety	Discovery Unit
Christopher Sawasky	Investigator 1, Law and Public Safety	Discovery Unit
John Ragno	Investigator 1, Law and Public Safety	Criminal Justice Bureau
Catherine Brown	Technical Assistant 1	Discovery Unit
Lisa Fackenthall	Technical Assistant 1	Discovery Unit
Maryanne Seward	Technical Assistant 2	Discovery Unit
Stephanie Tomlin	Technical Assistant 2	Discovery Unit

Based on these circumstances, the Division of Agency Services (Agency Services) indicated its support of DL&PS' request.

### CONCLUSION

*N.J.A.C.* 4A:3-5.5(a)1 and *N.J.A.C.* 4A:3-5.5(b)1 provide, in pertinent part, that employees in NE titles are entitled to overtime compensation at the rate of one and one-half times their regular rate of pay "for time worked in excess of 40 hours per week" with the approval of the Civil Service Commission or designee. However, per *N.J.A.C.* 4A:3-5.3(d)2, for work performed in excess of 35 hours per week, up to 40 hours, employees in NE titles are only entitled to comparable amounts of time off, not cash overtime compensation.

*N.J.A.C.* 4A:1-1.2(c) provides that a rule may be relaxed for good cause, in a particular circumstance, in order to effectuate the purposes of Title 11A of the New Jersey Statutes Annotated.

Due to required time-frames under the Bail Reform and Speedy Trial Act, it is appropriate to permit the above indicated NE employees who work more than 40 hours in a week to receive cash overtime per *N.J.A.C.* 4A:3-5.5(a)1 and *N.J.A.C.* 4A:3-5.5(b)1. Further, under these particular facts and circumstances, it is also appropriate to relax the provisions of *N.J.A.C.* 4A:3-5.3 and permit the DL&PS, Division of State Police, Criminal Justice Bureau and Discovery Unit, to provide the

above indicated individuals, cash compensation at the regular rate for hours worked between 35 and 40 hours until May 31, 2022.

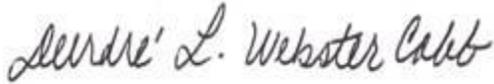
However, absent different circumstances, such additional requests will not be approved. In this regard, this is the second such request from DL&PS to allow for overtime to address the backlog within the Discovery Unit, which has not decreased. It is therefore recommended that the DL&PS explore additional methods, such as increased staffing, to combat the backlog.

**ORDER**

Therefore, it is ordered that this request be granted.

This is the final administrative determination in this matter. Any further review should be pursued in a judicial forum.

DECISION RENDERED BY THE  
CIVIL SERVICE COMMISSION ON  
THE 17<sup>TH</sup> DAY OF NOVEMBER 2021



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